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Medico-Legal Society

OF THE CITY OF NEW YORK.

presented by
J. Shraday,
M.D.,
THIRD

INAUGURAL ADDRESS

OF

CLARK BELL, Esq.,

NOV. 27, 1874.



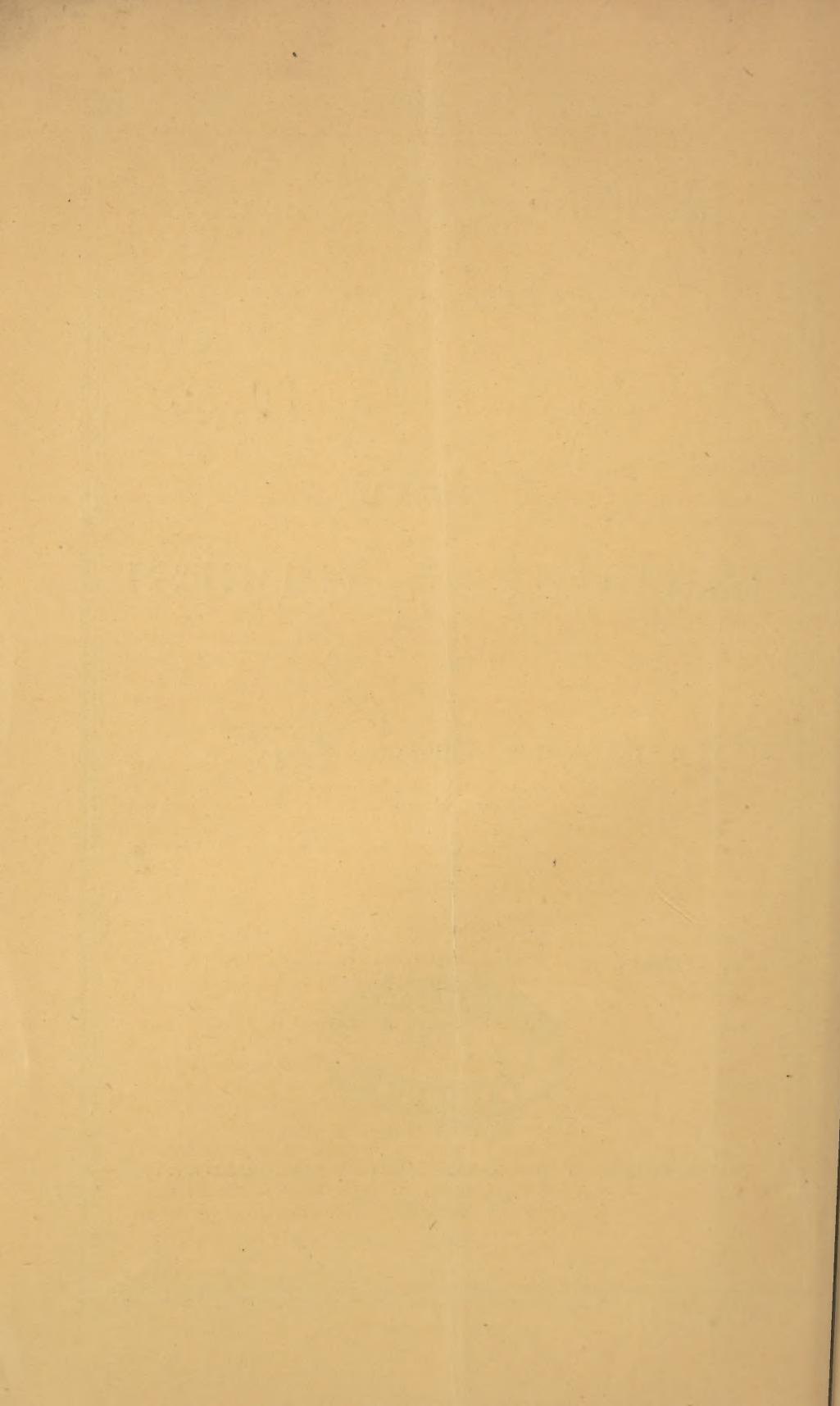
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MEDICO-LEGAL SOCIETY OF THE CITY OF NEW YORK.

THIRD INAUGURAL ADDRESS OF CLARK BELL, Esq.

NOV. 27, 1874.

GENTLEMEN:—It would be impossible for me to conceal from you my high appreciation of the very great honor and distinction which has been conferred upon me by the Medico-Legal Society of New York, in calling me again for the third time into its chief seat, and of that kindness which has marked this act on your part with such unanimity that it will always be remembered and cherished by me with the liveliest gratification and gratitude.

In assuming again the responsibilities and duties of your presiding officer, I cannot forbear to thank you all for that great and uniform encouragement and support which has everywhere and on all hands among you been extended to me; which has invested my duties and efforts on your behalf with such a charm, that it has lightened and lessened the labors of my office, and on many occasions rendered them a delight and a pleasure.

Members.

I congratulate you, gentlemen of the society, on the accessions that have been made to the roll of your membership during the year that has just closed.

The present roll of resident or active members of this society now contains 348 names.

The death of Alfred Vogel, of the University of Russia, leaves fourteen names on the roll of your honorary members, with six vacancies; in filling these great care should be observed by this society, as it should be made a position of great distinction and worth.

Your roll of corresponding members now numbers twenty-nine.

I take great pleasure in recommending for honorary membership, MM. Guerard, member of the Academy of Médecine of Paris, France, who was elected president of the Société de Médecine Légale de

Paris, in December, 1872, and who was one of the original founders of that society, which was organized in February, 1868.

MM. Guerard, has always been an active and conspicuous member of that body, for years before his election to the presidency, a member of its permanent commission, and a physician of distinction in the city of Paris, who has devoted no little of his time to the study and solution of questions involved in the science of medical jurisprudence.

LABORS OF THE YEAR.

During the past year this society has accomplished no little work. The discussions that have occurred at your sessions, and the varied and useful labors in which you have been engaged, have been such as to maintain the high standard you have hitherto established.

One of its most important labors has been the compilation and publication in a bound volume of some of the earlier papers read before this society, with a historical statement of its origin, rise and progress.

This interesting and valuable result has been accomplished under the care, supervision, and labors of a committee of your body, and is just published by J. R. McDivitt, Esq., one of the most enterprising of the law publishers of New York, who furnishes it to members at the wholesale price, under an arrangement originally made with him by this society.

The present volume, which will well repay your purchase and preservation, and which confessedly must enrich the literature of medical jurisprudence, will be followed during the coming year by another and similar one of a like character, which will bring out the papers read before the society that have passed the committee on publication down to about the present time. I esteem this work an important and notable part of the labors of this society, of very great value upon medico-legal questions, thus made accessible to the world, and I particularly commend it to every member of the society, as meriting his countenance, support and encouragement, so that these publications may become a permanent and established feature in the future of this organization. The thanks as well as the material support of members are eminently and properly due to the enterprising publisher, and I can not dismiss this subject from your consideration without also publicly thanking in your name our worthy member, R. S. Guernsey, Esq., who has devoted great pains, time and labor to the successful accomplishment of this very important result.

Library.

I owe you all apologies for great neglect of my duty in not presenting more forcibly and persistently the cause and the merits of your library, which has been duly organized, and started upon a successful basis, since I first had the honor of assuming the chair of this society.

The contributions from members in money and volumes have continued in a way that assures us of the ultimate success of the

effort, but are not equal to nor commensurate with the hopes or desires of your president, nor the importance and merits of the enterprise itself.

When gentlemen reflect that so small a sum of money as \$5,000 would immediately, and probably within the present year, enable us to purchase nearly every work on these subjects, and aggregate the best library of medical jurisprudence that could be found anywhere, I am obliged by what I consider my duty to call upon you, gentlemen of the society, to again take into consideration the propriety of raising this sum, either at once or speedily.

If it is thought advisable for any reason not to attempt it all now, let one-half be raised the present, the residue the ensuing year. There are certainly men enough now among our own numbers, who, if they could be induced to make the effort, would at once raise this sum, without an appeal to the two professions outside of our membership.

But so grave is the imperative and immediate necessity for a complete and comprehensive library in this city, which should embrace every known work on medical jurisprudence or its kindred topics, particularly in the English, French, and German tongues, that this society cannot be true to itself or its duties if it neglects to secure the early accomplishment of this very desirable result.

If this society should feel justified in permitting the general public to co-operate with its members in this work, under some arrangement by which every contributor of a bound volume accepted by the society should be entitled to the use of and access to the library, it would probably add a considerable number of works each year to the shelves of the library, if it did not immediately accomplish the desired purpose.

The general resolution originally adopted at the time the library was founded, making it the duty of every member to contribute annually at least one bound volume thereto, has been of very great value and importance in adding to its catalogue.

Quite a considerable number of our members have, with great care and punctuality, attended to the discharge of this duty, whose contributions have been acknowledged from time to time, but your president regrets that he is compelled to report that a large number of members are delinquent in this very important respect.

Allow me, in closing this part of my remarks, to remind members that if this duty was promptly and annually discharged by every member of this society a few years would give us a library on medical jurisprudence alone, second to none in the world, even though no immediate steps were taken at once to secure these volumes by an appeal extraordinary, as at first suggested.

Let every member, then, who has neglected to send the volumes, attend to it at once, and add to a library which has already become quite valuable, and is probably now the best in this country for reference on these subjects.

I append a list of contributions of volumes and money contributed since my last announcement, with the names of the contributors.

Legislation.

The changes that have been made in the laws of this State, during the past year, are of the very gravest character concerning the custody, care and treatment of the insane, and the trials of insane persons, especially where the defense of insanity is interposed.

The prominence that has been given to the discussion of these varied questions in this society has had a large influence upon this legislation, while the labors of a very distinguished gentleman, alienist, and an honorary member of this society, have probably been more immediately instrumental in securing these changes than all other causes combined.

The codification of the statutes of the State, upon this subject, as this legislation was styled, for which we are so much indebted to the services of Professor John Ordronaux, embrace radical and fundamental changes in the whole system, and revolutionized from beginning to end the whole theory and practice in such cases.

The evils that had been charged upon the old system, of the commitment of persons alleged to be lunatics to an asylum, and the wide spread conviction that under the former system gross abuses might have been and were sometimes practiced; were probably causes for an excited public opinion that demanded a change and inclined to one that should throw greater safeguards around the liberty of the citizen, and make it more difficult if not practically impossible to cause the incarceration improperly of any person as an alleged lunatic, who was really of sound mind.

While the practical working of the new law is at first criticised severely by medical men and practitioners, as being almost impracticable and unnecessarily difficult, and doubtful, in cases of insanity, where prompt action is necessary, it may well be claimed that a fair trial of the new plan should be made, with patience, with care, and without feeling, before we condemn it finally and demand its revision or its repeal.

Passing all the multifarious detail of the many changes made by this important statute, it may be well to allude briefly to the radical one in relation to the plea of insanity by or in behalf of persons charged with crime in the criminal courts.

It was a matter of grave concern, in the administration of justice in the courts, for the punishment of offenses, whether the defense of insanity, so often interposed as a plea in defense or justification of alleged crimes, was not undermining public confidence in the administration of justice, by its well-known abuses, and by its being used improperly for the escape and acquittal of well-known criminals, of acknowledged or generally accredited guilt. The very great uncertainty that immediately surrounded a capital case, when this defense was interposed and insisted upon, was well known, and had resulted in a gradual withdrawal of public confidence in the then existing laws upon this subject.

The change made in the new statute strikes at the root of the whole evil.

It practically does away with the defense of insanity, if formally

pleaded as a defense to the indictment, or attempts to do so completely.

To guard against the conviction and punishment of insane persons, the old statute is re-enacted and perfected so as to have an investigation into the sanity or insanity of the accused, as a separate and independent proceeding from the trial of the indictment; and thus leave the question of the guilt or innocence of the accused to be tried by itself, if the indictment ever comes to be tried, which in the case of an alleged lunatic must always follow such a preliminary investigation.

I regard it my duty merely to advert to this comprehensive and remarkable change in the law of this State, which is thus put upon trial before the eye of the whole nation. If the workings of this law shall upon trial be on the whole fairly decided to be an improvement upon the old and previously existing systems, it cannot fail to have a very prominent and beneficent effect in initiating similar changes in the laws of other States.

But gentlemen should not be in too great haste, nor impatient of a little delay before arriving at positive opinions, particularly if against the change now inaugurated, until a fair trial and test of its workings can be had.

It is not improbable that before a definite and decisive solution of the question involved can be safely reached, some minor changes, suggested by trial and experience, may be necessary, and the aid of the Legislature invoked to give the proposed plan a perfectly fair trial.

That the important step has been taken, that the new system is now really upon its trial, no matter how much of inquiry or criticism it may excite and awaken, can not but be a source of congratulation to the Medico-Legal Society of New York, nor to the thoughtful men of this society, who have been interested and engaged in the discussions and questions therein involved, and who have taken part in the passage of the new statutes.

Other Societies.

We have received, during the past year, the publications of "La Société Medico-Légale de Paris," with whom this society is proud and happy to continue on terms of most friendly intercourse, and in correspondence.

The volume, of some 500 pages, issued by our sister society of Paris, being Bulletin, Tome 2, contains records of the years 1870-1872, commencing with the address pronounced by M. Devergie, at the February session of that Society in 1870, on the occasion of his retiring from the Presidency, and the Inauguration Address of his successor, M. Béheir, on the occasion of his accession to that office.

The volume, closing with the election of M. Guerard to the Presidency, in December, 1872, may be called the record of the notable transactions of that society, during the two years of the presidency of M. Béheir, one of the most distinguished of its members, and an honorary member of this society. This volume,

the fruit of its labors, is most valuable, and reflects the very highest credit upon that body. It is a most notable and brilliant monument of the value and importance of that society in the French capital, and to the progress of scientific investigation upon medico-legal questions abroad.

As this work is not yet translated into English, and I am not aware that any other copy has come to our members save the one sent to this society and now in my hands, I trust you will bear with me, while I allude briefly to the general character and work of our sister society in Paris for the period since December, 1872.

The Medico-Legal Society, of Paris, has investigated on various occasions, through a committee of its members duly appointed by the society or its president, interesting questions upon very many subjects, as they have arisen from time to time, in France, either in the civil or criminal courts, or from their own correspondents; some of the most interesting cases of poisoning, of infanticide, of medico-legal discoveries concerning blood, of tattooing, upon the question of identity on a mutilated dead body, many of which have been discussed with great skill and ability, and are therein chronicled.

The work also contains most valuable and interesting papers, reports upon the French law of insanity, and reviews of legal proceedings where medico-legal questions were raised and discussed.

Allow me to quote from the very short, but most excellent address of M. Béhéir, pronounced at his inaugural, a few sentences of which will give you his idea of the duties and position of the Medico-Legal Society of Paris, and which I think will be most pertinent also to the members of the Medico-Legal Society of New York. M. Béhéir says:—I translate but not literally—

“One other cause of the success of our society is certainly the creation of an intelligent, permanent commission ready to respond to all questions submitted to it.

“This is an excellent organization, for it constitutes a perfectly disinterested tribunal upon medical questions in judicial affairs.

“The advice which your permanent commission brings to your knowledge, and frequently to your judgment, is in effect based upon the purely scientific appreciation of the circumstances and the surroundings which constitute the medico-legal question presented for your consideration.

“Neither the influence of the prosecution nor of the defense can intervene here, it can know and will investigate only the absolute, and almost the abstract research after truth, the second term in that device which you have adopted.*

“Gentlemen, this service is not the only one which the organization of this society is call upon to render. It is still useful from another point of view. The constitution of our work in fact unites upon a common field of labor, the medical man, the magistrate and the member of the bar. This is a useful intercourse, and

* “Science—Vérité—Justice.”

one the results of which will be very important. If we see one another more we shall know each other better, and will better appreciate the inherent qualities of each, as well as the peculiar characteristics of each class of our members.

"Sooner or later this community of labor will tend to remove that antagonism which it must be conceded actually exists among the magistrates against the physicians.

"In pursuing our investigations, seeing how we proceed, why we are thus united, and on what labors we rely, the magistrates will give us more of their confidence. They will recognize that the legitimate honest medical man, such as they will always select, is more detached from popular clamor than they are apt to give him credit for; that the conscience which he brings to his mission controls him absolutely; that he desires to thoroughly understand all sciences germane to the question which he examines; they will recognize that it requires tact and system, attention and care to assist in the application of that solid scientific knowledge, which is in fact indispensable. Let us understand better who we are, what we do, what we know, and they will accord more value to our conclusions, and a more benevolent attention.

"They will above all learn, what has not been generally understood by magistrates, that not every physician necessarily understands medico-legal questions; that it requires more than a mere diploma as a doctor of medicine to examine these subjects, that the opinion of physicians should not be seriously opposed to the opinion of an accredited and qualified expert, that it requires special studies to be able to fully understand the questions of forensic medicine, and that certain of these questions necessitate a study and practice of these specialties.

* * * * *

"The labors of our society will serve to enlighten those whose mission it is to apply the law.

"To be frequently united upon a common plane of study, is a circumstance which will tend to smooth away the difficulties I have mentioned. It will also be, in my opinion, an important result if our society unites the two professions, equally independent.

"In the times in which we live, and those to which we tend, if we can unite and close up the ranks of all honest men, we will accomplish a pious and social work.

"In order, gentlemen, to attain this elevated object, the role which our society must play is definitely traced, and closely defined. I have heard it stated in one of our discussions, 'Do not let us place ourselves in opposition to the tribunals; let us take care that our opinions are not rejected, or we lose our authority; let us sacrifice something to success; let us occupy ourselves above all with questions in which our opinions may obtain consideration, and be treated with respect.'

"I am not of that opinion. I believe that our society should investigate in all simplicity, in all conscience, every question that is brought before it, detached from all personal consideration or inter-

est. We must advance courageously without leaning on any other support than that of science and of common sense.

"I know only a few who have for their motto, 'Do well and let people talk,' but I believe that for individuals as well as bodies of men it is the best rule of conduct.

"Truth has its power of evolution, which overcomes all obstacles, whether created by its enemies or its imprudent friends.

"To do well, without looking to the immediate results, will bring honor and credit to our society; perhaps the time may be long deferred, but premature fruits are not the best; and only those which are grown in due season, and are the fruit and growth of wisdom, are worthy of our preservation, or will permanently endure."

Bulletin, Tome 3, a work of some two hundred pages, has also been since received, which chronicles the labors of that society, under the presidency of MM. Guerard, from his inauguration in January, 1873 to the 8th of December, 1873, the last meeting of the society in that year.

This volume announces that the Government of France, in a decree, promulgated on the 22d of January, 1874, by the President of the French Republic, has formally recognized that society as established for the public good, and its statutes and regulations as formally approved by the Government of France.

The society has assumed the name of "Société de Médecine Légale de France," and its constitution, rules and regulations form one of the most important and interesting portions of this volume of its transactions.

The Medico-Legal Society of New York congratulates its sister society of Paris on this fortunate result, which cannot fail to be of signal service and benefit to that society, and must largely increase the sphere of its usefulness.

The papers published in Bulletin, Tome 3, embrace a very interesting class of cases, among which are several relating to murders, infanticides, suicides, and various other crimes.

Among those papers also is an interesting one upon the subject of chloroform as an agent in the commission of crimes, being the report of M. Dolbeau, where the whole subject is ably and critically considered, and was made the subject of discussion in the society at its session of November 10th, 1873.

The views formerly expressed by S. Rogers, M. D., ex-president of this society, upon this subject, are therein quoted and discussed, but the conclusions reached by M. Dolbeau do not entirely agree with those of Dr. Rogers in that class of cases.

The advance made in the French capital in the science of medical jurisprudence, through the agency of this active society, has been decided and gratifying.

It has also been our good fortune to have received the announcement of the organization of a similar society to our own, and upon a like basis, in the city of Cleveland, Ohio.

We have received a copy of its published plan of organization, with officers, constitution, by-laws, etc., and feel an honorable pride in receiving from this young and vigorous society the credit of having inspired its organization for the investigation of the science of medical jurisprudence in that city.

I take great pleasure in recommending that the Cleveland society be furnished with all our publications, and that we should in all ways in our power be glad to aid in its prosperity and success.

I venture to recommend that our new and forthcoming volume be sent in addition to all the sister societies, to the leading libraries abroad and in our own country, and I trust soon to see inaugurated in the city of London, a Society of Medical Jurisprudence which shall occupy, in Great Britain, the position which the Paris society does in France, and our own society in this State and nation. I shall be disappointed if Berlin and Vienna do not shortly inaugurate similar movements in those cities.

The Relation of Science to Medical Jurisprudence.

The advance that science is making in the domain of medical jurisprudence cannot fail to excite your liveliest interest.

Toxicology has become one of the most valuable aids and agents in detecting, convicting and punishing crime, and the extended efforts as chemists of such men as Prof. Doremus, Prof. Chandler, in our country, and Tardieu, Caspar, Mayet, and Devergie abroad, have awakened and encouraged investigations which cannot fail to be of lasting and permanent value to mankind.

When science does intervene now in the cases of detection of poisons by chemical tests she is valuable because, and only when, she is certain. If her voice is to be listened to at all convincingly it must speak with unerring precision. It is either demonstrative or it is valueless. The science of toxicology is as accurate and absolute as mathematics, and when demonstration comes debate ends, doubt ceases, and conviction must follow. We should never regard mere theories as proofs. We may debate them, examine and discuss them in their varied forms and bearings; submit them to tests, fancied, difficult, and even crucial, but, when life, character, liberty or property are at stake, mere theory ceases to be of value. We can only accept the actual, the real, and the unquestionably certain. Science should have an eye of flame clear as the sun, but no heart, no emotion, no fear, no passion. If she points her finger, it should be as the needle to the pole. It must not even vacillate, it must not vibrate, for the result to be accepted as absolute. No leaning of the intellect, no warping of the judgment, no kindling of the heart or affections, no appealing to the passions, the loves or the hates, but cold as the frost, and far reaching and clear as the ether of eternal space. Science leads, if she leads at all, unerringly, unmistakably, and with precision, or she is no safe guide in the domain of medical jurisprudence.

Experts and Expert Testimony.

To speak a language, we must learn it.

No one can practice a trade that has not learned all its deftness and intricacies by study and practice. The hand that has acquired skill and tact, and cunning, for a certain task, has only come to it after long labor and many trials.

So no physician should dare call himself an expert in any branch involved in medical jurisprudence or scientific investigation, until he has studied it to its foundations in its abstract principles, and carefully prepared himself besides by practice and actual contact with it in all its phases, peculiarities, and idiosyncrasies, pursuing it into every detail.

It is not enough to know the nature, character, names and antidotes of the various poisons, nor to understand theoretically their varied tests and methods of determination.

Many men of both professions have a very good general knowledge of these theoretically, as learned from books, reading, and observation.

That chemist who, knowing all this, before he attempts to swear, when life and death are in the balance, should have taken all these questions, all these tests, to his laboratory, and worked out one by one every problem for himself, before he is competent to speak with precision to a court or before a jury.

Mere opinions of men are becoming daily less valuable, especially on scientific questions.

The more we attempt to rely or to build upon them the more painfully uncertain do we become of our premises, of our foundations.

The experience of both professions in that class of cases in our courts, when the opinions of medical witnesses only are given, has doubtless been akin to that entertained by the community at large, and helped to shake profoundly the public confidence in them at all.

Counsel submit usually, or frequently in the same case, contrary opinions from medical men, of apparently equal learning, skill and opportunities, upon the same apparent state of facts. For example, in the case of Geo. Francis Train, Drs. Hammond, Clymer and Parsons pronounce him insane, though they have no previous acquaintance with or personal knowledge of him, and base their opinion upon one or two interviews and conversations, while Drs. Finnell, Peugnet, Gardner and others pronounce him sane on similar examinations, and the jury usually balancing the medical testimony, as in that case a panel of the sheriff's jury, having a large experience in such cases, are governed by their own judgment, or the testimony of those acquaintances and friends who are and have been long and intimately acquainted with the party who is the subject of the investigation.

And this case is but a sample of similar evidence in other cases of more or less public prominence.

We must strive to approach nearer by careful study, preparation and skill to certainty. So long as facts only go towards con-

viction and to formation of opinions merely, these opinions must be accepted with great care, and their weight or importance must be conceded to be of little value.

We do not want opinions, we want certainties. We have nothing but doubts left if we gain as the result of scientific research or inquiry only convictions or opinions.

In the toxicological test if the result is not absolutely certain we reject it wholly.

There are more or less bearings and indications in many of the experiments which fall short of certainty, but which are not wholly valueless as evidence, still in such cases we reject all if the result is not absolutely certain.

Let us emulate and establish that standard. It is safer. The teachings of pure science have not merely a charm; they have more; she rewards her devotees; she smiles upon the patient worker, and the truth lies at the bottom of her profoundest depths.

We must then invade and dig and work for the hidden, but we must know, recognize and acknowledge it only when it stands fully revealed. No man, no matter what may be his profession, his apparent standing, or his theoretical or book knowledge, until he has completely mastered the particular subject upon which he is called to testify, as well in its theory as in its practice, is safe to be classified as a competent expert.

Medical jurisprudence, on its medical side especially, is full of specialties.

The medical expert should be a specialist in the widest, broadest, best sense of that term.

The more learned he really is, the more careful, thorough, complete and comprehensive will be his examination of a subject.

His analysis should be fundamental. If we are to deal in opinions only, the opinion of such a witness is valuable; but the more profound the expert the less we shall have of his mere opinions. He will presently deal only in facts. Has he found certainly the truth? Is it certain, absolute, demonstrable? He then can speak, and convincingly. Is he groping in the case, as one in the dark? Does one set of symptoms indicate this, another that?

Is he in doubt, or does he balance facts and weigh them and attempt to offset them, the one against the other? Then we have only doubt; and if opinions are the result, why should they not differ, as men always will differ?

I know, of course, the rule established in our courts, under which, in certain cases, the opinion of experts upon a given statement of facts is permitted to be given; but the whole spirit and philosophy of the law is tending to establish this class of legal evidence on a more solid and substantial basis, and to make it a means of arriving at truth, and to aggregate facts, rather than to cloud and embarrass a case in the mazes and uncertainties of the diverse and contradictory opinions of medical men.

In that remarkably lucid and masterly address delivered by Prof. Tyndall before the British Association of Science, at its recent session, which has awakened so much of interest and discussion on both

sides the sea, we find that very learned and brilliant man and thinker, in reviewing the philosophy of Lucretius and his opponents of that and the present time, bringing foremost and prominent into the discussion those grave questions so intimately related to our studies of insanity, diseases of the brain, and mental phenomena, concerning which many members of this society who have given the subject of mental diseases and peculiarities much thought, are at a loss and differ in their conclusions.

Are aberrations of the reason an affair of the material brain? Is mental disease a brain disease? What is the true nature of the soul of man? And what its relation to his physical structure?

In that admirable debate, between the pupil of Lucretius and Bishop Butler, author of the world-renowned "Analogy," these problems, which have puzzled the alienists of our own and past time, are placed by Professor Tyndall in a most masterly way, to investigate whether the mind of man, and his intellectual and reasoning faculties, are a part of his physical being, or whether the body is the mere tenement of the spirit in which it dwells while life remains.

You who have read and studied this paper cannot fail to have noticed how prominent a part this inquiry takes in that remarkable discussion, and to what ends Prof. Tyndall's reasoning might carry these propositions if it be conceded that madness is solely and only the result of a physical disease of the brain, as is claimed by many of our abler alienists. I draw a wise line of demarcation between the actualities of science--between its demonstrable facts—and between the inductions, the theories and the speculations of science.

I have no hesitation whatever in proceeding with the inquiry suggested by Professor Tyndall, to which allusion is given above, by any and all scientific aids, but we must not accept opinions or theories for facts.

Let us pursue the investigations with courage, but with patient persistence, and be prepared to accept results when they are demonstrated only, and when doubt no longer remains.

Is the material and physical brain the instrument of the mind of man? Is it the true seat of reason? Is it a machine—one through or by which the will acts and the faculties develop and exhibit their functions and powers.

Or is it, *per se*, a force, a part of the physical existence of man, in no wise separated or capable of separation from the physical body? Is the soul bound to the physical, and does it therefore terminate and end with the sleep of death?

Doubts from a scientific point of view, prove nothing. They are at best but negative testimony, and in a case where something is required to be demonstrated, some fact established, mere negative testimony is of little or no value.

The deductions of science, or the theories depending on such deductions, of which the whole field of scientific and philosophical inquiry is so full at the present moment, must not be mistaken for, nor confused with, its demonstrable facts.

We cannot be too careful in pursuing our investigations in the

domain of science; or, in the study of its minor or greater problems, in waiting and hesitating, and in absolutely refusing to accept as truth that which oftentimes seems to be true, or which may be true, or which even is generally conceded to be true.

In-deed mere belief that a certain thing is probably true, or really true, is nothing.

We need not, as has that talented and brilliant professor, attempt to apply the laws and tests of physical science in the domain of the intellect, or of the beliefs and faiths of mankind, for science has little if any thing to do, and can necessarily have little to do with matters of faith or of theology, but we need or should not hesitate from any considerations or fears in following the most thorough, absorbing and careful examinations into all the issues within the domain of medical jurisprudence; for no matter where we find or how we find the real truth, we may not fear to avow or embrace it.

There may be those who fear to pursue these or similar inquiries to their legitimate sequences, through a fear that some result might disturb settled convictions or opinions, but such fears are wholly unworthy, and should not for a moment control any rational or thoughtful mind. I have never for one moment feared the result of any scientific test, examination or trial, upon any of the questions involved in the matters of my own opinions, faith or convictions, and I should not regard the faith, opinion, or the convictions of any man of value, who did fear to submit to any tests that science could really make. A faith that could not stand such a test would be unsafe and unreliable. The great danger is, in accepting those indications or leanings which sometimes appear to be the teachings of science, for scientific facts; and if we examine in this manner and upon these subjects, without great care, we are in danger of being led into the very mazes of doubt, uncertainty and daze in our investigations of medical jurisprudence which Professor Tyndall describes as his own state, in regard to a bstruse metaphysical questions which he has in vain sought to expose to scientific tests and demonstrations.

I cannot better conclude what I have to say upon this subject than to introduce an extract from a letter from M. P. Volpicelli to M. Chevreul, read before the French Academy, and which came to my notice since the above was written, which appears in the Comptes Rendus of August 31, 1874, a translation of which is also given in the October number of the Psychological and Medico-Legal Journal. M. Volpicelli says:—

"We must not forget that the characteristic *truth* in sciences belonging to the dominion of natural philosophy is *demonstration*; and that, unfortunately, in other sciences of this dominion (mathematics alone excepted) the principal facts that constitute them are not connected except by propositions more or less probable, which escape demonstration—the impossibility to pronounce one's self *à priori* on the question of knowing whether a proposition advanced as new is true or erroneous.

"And again there is a distinction, too often forgotten, between

exact facts, gathered from experience or observation, and the interpretation given to them—a distinction so well drawn up by a profound genius: *phenomena alone affect our senses, the mind alone discovers the causes*, from which the consequence—the *experimental method à posteriori*, which I have just defined—should only be applied to the *interpretation* which has *led to experiments or exact observations*, for it is undoubtedly this *instigation*, this interpretation, which, if correct, forms *science*.

"It is this *distinction* of facts, *observed to be exact*, and the *interpretation given to them*, which, according to my idea, are not sufficiently known so as to be admitted into the interests of real progress, such as *scientific experiments* and, I may add, the *science of observation*."

Objects, Purposes and Aims.

The Medico-Legal Society, gentlemen, can not, in any sense, be properly called, and should not be regarded as a medical society. It is rather a scientific than a medical society. Composed of gentlemen selected from the body, in the main, of the two great professions of medicine and law, it is not organized for the purpose of taking issues upon any of these questions which excite interest, or divide the medical profession, as such, or which interest only the legal mind, but it essays to discuss and investigate such questions as relate to the science of medical jurisprudence, and to throw light upon the path of the lawyer, court, or jury, in the investigations before legal tribunals, when the aid of the scientific medical expert is needed to explain, to demonstrate, or to enlighten.

As for the physician, this society should aid, encourage, and instruct him in preparing himself for such investigations in the courts, as well as to enlighten him in the multiplied cases now constantly arising where the member of the medical profession is brought into contact with the administration of justice, and to fully explain and define his relations to the laws of the State.

My own idea has been to place this society on the basis and standing of a general scientific society. It is not, and for some time past has not been limited strictly to the two professions of law and medicine. It has been thought advisable to widen it; to embrace eminent chemists, whether medical men or not, for their value upon questions of toxicological science and investigation.

It is, as I think, wisely conceded that men who might be called eminent in either science or letters, if interested in the domain of medical jurisprudence, would be a valuable acquisition to this society.

A gentleman of this city, of large intellectual attainments, considerable research, and who devotes his life to scientific and intellectual pursuits, neither a lawyer nor a physician, contributed a paper to this society last season, which was read, and that gentleman, by the unanimous action of the executive committee of this society, passed into the list of its active membership.

I should hail the acquisition of such men a great gain to such an organization as the Medico-Legal Society. Upon this subject, however, I only advance my individual opinions, and so far as I un-

derstand them, those of the legal profession in the main. The celebrated M. Devergie, when retiring from the chair of the Medico-Legal Society of Paris, speaking upon this very subject, says : I translate as before :

"In all scientific societies two conditions are usually requisite : homogeneousness in the studies and labors of each of its members ; a simultaneous course, in order to advance that particular branch of scientific study which the society represents.

"Our own has no analogy with its older sisters, save that general and common purpose, the progress of science.

"It differs from them not only in its composition but also in the end which it seeks to accomplish.

"Contrary to usage, its elements are all heterogeneous.

"It represents a fortunate conjunction of law, of medicine, of the veterinary art, and of the sciences of physiology, physics, chemistry, and natural philosophy.

"Forensic medicine is almost a borrowed science. It is not absolutely and by itself self-existent, but appeals to that universality of science on which it stands.

"Nothing is foreign to it ; its progress, like its practice, combines all these elements.

"But it is in its practice that it reveals itself as an art, by the specialty of its interpretations, its diagnosis, its prognosis, and the light by which it makes clear the facts after we have seen them from a distinct point of view."

The Paris society started on a broader, more catholic, and wider platform than we did. In addition to law and medicine, they opened their doors to veterinary surgeons, to all scientists, to physiologists as such, to physicists, pharmacists, chemists, and naturalists.

They place themselves upon the broad standard and basis of a general scientific society, and we shall make a grand forward and upward step when we emulate them in this respect and dismiss forever from our thoughts all questions of the peculiar ethics of either profession, leaving them in full force in societies purely medical for the government of medical men, and societies purely legal for the government of legal gentlemen.

We are of necessity a homogeneous, and in no sense a medical society.

We are united for the investigation of the science of medical jurisprudence, and we should be glad to welcome the light of truth, of reason, or of science, no matter whence it comes, so long as it be truth, real light, and not "science falsely so called."

In one other respect have we not given the same or as much force, prominence or attention as our Paris confrères, especially of late, that is, to the examination by a commission of our members of interesting pending questions of public or private interest in the courts.

The influence of this society in the case of Schoeppe, was doubtless of great benefit to prevent what might have been properly termed a legal murder.

I venture to recommend this very interesting and prominent field

for your further labors, advising that same courage, patience and care in the investigations so forcibly recommended by M. Bèheir and which will not only increase the usefulness and importance of your labors, but make them vastly more instrumental in the accomplishment of good and the acquisition of scientific knowledge and research.*

Again thanking you, gentlemen, for the renewed expression of your continued confidence, evidenced by my re-election to this chair, so wholly unexpected and unlooked for by myself, I resume the duties you have so kindly committed to my charge, trusting for the same kindly aid in the future which I have so generously received in the past.

* I append an extract from the Statutes of the Medico-Legal Society of France which provides for its permanent commission, which is undoubtedly one of its most important agents :

TITRE IV.

Commission permanente.

ART. 17. Une Commission permanente, composée du Président du Secrétaire général et de neuf Membres titulaires, est chargée de recevoir dans l'intervalle, des séances toutes les demandes d'avis motivés qui peuvent être adressées à la Société, et d'y répondre immédiatement s'il y a lieu.

ART. 18. La Commission permanente se réunit selon les besoins et délibère d'urgence dans l'intervalle des séances.

ART. 19. Les décisions de la Commission permanente sont prises à la majorité des Membres présents, elles doivent réunir au moins quatre voix.

ART. 20. La Commission permanente peut selon la nature des questions à résoudre s'adjointre un ou plusieurs Membres de la société.

ART. 21. Les décisions de la Commission permanente n'engagent pas la société; elles lui sont communiquées à la séance suivante.

ART. 22. Les Membres de la Commission permanente sont élus au scrutin, par la société. La durée de leurs fonctions est de trois ans, et la Commission est renouvelée par tiers tous les ans.

